

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$60,000.00 IN UNITED STATES
CURRENCY,

Defendant.

3:13-CV-00101-LRH-VPC

ORDER

This is a civil forfeiture action. Before the court is plaintiff United States of America's Motion for Default Judgment and Forfeiture (#9). There has been no response.

The government's Complaint in Forfeiture (#1) alleges that on September 24, 2012, Gregory Thomas Gibbar was traveling by train from St. Louis, Missouri to Emeryville, California. Two Reno Police Department detectives had been notified of Gibbar's itinerary (though it is unclear how), and they confronted Gibbar aboard the train when it stopped in Reno, Nevada. Upon questioning by the detectives, Gibbar initially denied having large sums of currency in his possession. However, Gibbar consented to a search of his bags, and the detectives discovered \$60,000 in vacuum-sealed currency.

Gibbar then identified the currency as his, claiming that he had earned it working various jobs. He stated that he intended to buy a house in Emeryville with the money, but later calls to the realtor he had identified did not verify this story. The detectives seized the currency pursuant to 21

1 U.S.C. § 881(a)(6), believing the currency to have been furnished in exchange for controlled
2 substances. Shortly after the seizure, a drug-detection dog alerted to the currency.

3 On December 5, 2012, Gibbar filed an administrative claim with the Drug Enforcement
4 Agency (“DEA”) for the seized currency. The government filed its Complaint on March 4, 2013,
5 and the court issued a warrant for the arrest of the currency under Supplemental Rule G of the
6 Federal Rules of Civil Procedure on March 14 (#3). The government served notice of its Complaint
7 and the arrest warrant on Gibbar and published the notice on the government forfeiture site,
8 www.forfeiture.gov.

9 Gibbar—and anyone else with an interest in the seized currency—failed to timely file a
10 claim or answer pursuant to Supplemental Rule G. On May 15, 2013, the government moved for
11 entry of default (#7), which the clerk of court granted the next day. The government now seeks
12 entry of default judgment.

13 Under Rule 55(b)(2) of the Federal Rules of Civil Procedure, a court may enter default
14 judgment where the clerk has previously entered default based on the defendant’s (or, as here,
15 claimaint’s) failure to defend. Following entry of default, the factual allegations in the complaint
16 are taken as true. *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). The determination
17 of whether to grant default judgment lies within the court’s discretion, though the court may
18 consider factors such as

19 (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff’s substantive claim,
20 (3) the sufficiency of the complaint, (4) the sum of money at stake in the action; (5) the
21 possibility of a dispute concerning material facts; (6) whether the default was due to
excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure
favoring decisions on the merits.

22 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

23 Here, the *Eitel* factors counsel in favor of granting default judgment. The government
24 provided adequate service and notice to the parties known to have an interest in the currency, there
25 is no evidence of excusable neglect justifying the failure to respond, and the amount of money is
26 not so great as to preclude default judgment. *See, e.g., United States v. Approximately \$72,000 in*

1 *U.S. Currency*, 2009 WL 506866, at *4 (N.D. Cal. Feb. 27, 2009) (holding that the sum of \$72,000
2 was not large enough to “warrant a denial of the motion” for default judgment). Furthermore, the
3 government has complied with the procedural requirements for forfeiture under Supplemental Rule
4 G, and the allegations in the Complaint are sufficient to warrant forfeiture of the currency under 21
5 U.S.C. § 881(a)(6) as “moneys . . . furnished or intended to be furnished by any person in exchange
6 for a controlled substance [or as] proceeds traceable to such an exchange.” Therefore, default
7 judgment is appropriate.

8
9 IT IS THEREFORE ORDERED that the United States of America’s Motion for Default
10 Judgment of Forfeiture (#9) is GRANTED. The court hereby certifies pursuant to 28 U.S.C.
11 § 2465(a)(2) that there was reasonable cause for the seizure, arrest, and forfeiture of the defendant
12 property.

13 IT IS SO ORDERED.

14 DATED this 22nd day of July, 2013.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE